

HOUSE BILL NO. 214

INTRODUCED BY SHOCKLEY

BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A PARENT MAY BE LIABLE FOR A TORT COMMITTED BY THE PARENT'S MINOR CHILD ONLY IF THE PARENT KNOWS OR HAS REASON TO KNOW THAT THE PARENT HAS THE ABILITY TO ~~SUPERVISE~~ CONTROL THE PARENT'S CHILD AND KNOWS OR SHOULD KNOW OF THE NECESSITY AND OPPORTUNITY FOR EXERCISING ~~SUPERVISION~~ CONTROL; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, in *Crisafulli v. Bass*, 2001 MT 316, 308 Mont. 40, 38 P.3d 842 (2001), the Montana Supreme Court recognized that the Legislature had failed to act in the area of parental liability for a child's tort and, in the absence of legislative policy to the contrary, adopted section 316 of the Restatement (Second) of Torts (1965) as a reasonable expression of a parent's duty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Parental liability standard. ~~(1)~~ A parent is under a duty to exercise reasonable care to ~~supervise~~ CONTROL the parent's minor child to prevent the child from intentionally harming others or from the child engaging in conduct in a manner that creates an unreasonable risk of harm to others if the parent:

~~(a)~~ (1) knows or has reason to know that the parent has the ability to ~~supervise~~ CONTROL the parent's child; and

~~(b)~~ (2) knows or should know of the necessity and opportunity for exercising ~~supervision~~ CONTROL.

~~—— (2) A parent may be liable for a tort committed by the parent's minor child only if the circumstances described in subsection (1) are found to have been present at the time of the tort.~~

NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 27, chapter 1, part 7, and the provisions of Title 27, chapter 1, part 7, apply to [section 1].

1 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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